

13 February 1981

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Keith Hall, OMB Examiner

1. On 13 February 1981 I had a long conversation with Mr. Keith Hall, our OMB examiner. During the course of that conversation I discussed a letter to Mr. Arnold Donahue, OMB, from [] ICS, dated 5 February 1981. That letter is attached.

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2. I told Mr. Hall that I assumed that we also could treat the following categories as being outside of the Presidential hiring freeze, as was approved by Mr. Donahue for the Intelligence Community Staff:

- a. The use of detailed personnel from other agencies and departments, and;
- b. The hiring of consultants, experts and independent contractors who are not appointed and who are not charged against ceiling.

Mr. Hall confirmed our understanding so that we are free now to consider the use of personnel in these categories.

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[]
Deputy Director of Personnel
Policy, Planning, and Management

Attachment

cc: [] O/Comptroller
OGC
DD/R&P

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Washington, D.C. 20503

Intelligence Community Staff

DCI/RM-81-2921
5 February 1981

Mr. Arnold Donahue
Chief, Intelligence Branch
International Affairs Division
Office of Management and Budget
Washington, D.C. 20503

Dear Arnie:

This will confirm our discussion concerning the implementation of the President's hiring freeze, and the interpretation of OMB Bulletin 81-6 instructions as they apply to the IC Staff.

STAT - Since the IC Staff is an organization with a permanent on-board strength that was under [] as of 31 December 1980, all losses of this category of staff (permanent cadre and full-time contract employees) after 31 December may be replaced on a one-for-one basis in accordance with exemption 6i of OMB Bulletin 81-6.

- The use of detail personnel from other agencies and departments is permitted under the freeze. Therefore, the IC Staff may continue to utilize such personnel.

- Although an agency can not appoint consultants or experts during the freeze, the IC Staff use of consultants is not made on an appointment basis as they have no employee relationship with either the staff or the U.S. Government. For this reason we may continue to engage independent contractor/consultants under the freeze. However, there would be no attempt made to exceed our normal pattern of such use.

I appreciate your guidance and assistance in interpreting the various instructions issued during this period.

[Redacted Signature]

Chief, Administrative Staff

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*Sounds fine with me -
Arnold Donahue*

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MEMORANDUM FOR: Director, National Foreign Assessment Center
Acting Deputy Director for Administration
Deputy Director for Operations
Deputy Director for Science and Technology
Chairman, E Career Service

FROM : Director of Personnel Policy, Planning,
and Management

SUBJECT : Federal Civilian Hiring Freeze

REFERENCE : OMB Bulletin No. 81-6, dated January 24, 1981;
Same Subject

1. Referent Bulletin directed Executive Branch departments and establishments to stop immediately all hiring, with the exception of those specific exemptions listed in paragraph 6 of the Bulletin. Unfortunately, the instructions and guidance provided therein do not address a wide variety of situations which involve the Agency's use of individuals under personal services contract.

2. We have subsequently received additional guidance which indicates that agencies cannot reemploy annuitants who recently retired unless a written commitment was made before November 5, 1980. This additional guidance provides that if a commitment was made after November 5, and the individual entered on duty prior to 26 January 1981, that new hire is allowed to stand. Commitments made after November 5, 1980 to individuals who have not entered on duty must be cancelled. The appointment of experts and consultants and the employment of temporary and part-time employees are also subject to the freeze.

3. Obviously there remain a number of questions regarding the extent to which the Agency may make commitments leading not only to the establishment of contract employee relationships but also to the establishment of one-time and longer-term independent contractor relationships as well. Until further guidance is obtained, the Agency's use of its contracting authority must of necessity be extremely circumspect.

4. Accordingly, it is imperative that effective immediately no commitments, written or oral, be made to individuals concerning their use by the Agency unless such commitments have first been cleared by the Director of Personnel Policy, Planning, and Management. Please convey this requirement to elements under your jurisdiction and advise that it is to remain in effect until further notice.

Harry E. Fitzwater

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PersPP&M/CPD/GLB/jls/ - 5 February 1981

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WASHINGTON, D.C. 20503

Bulletin No. 81-6

January 24, 1981

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Federal Civilian Hiring Freeze

1. Purpose. This Bulletin provides for an immediate and total freeze on the hiring of Federal civilian personnel as directed by the President on January 20, 1981. Instructions are also provided for appeals in a very limited number of situations where exceptions may be warranted.

2. Rescission. OMB Bulletin No. 80-7, dated March 17, 1980, is hereby rescinded, together with any exemptions granted under its provisions.

3. Authority and background. The Budget and Accounting Act of 1921, as amended. The President has directed that a total freeze be placed on the hiring of Federal civilian employees in the Executive Branch. This Bulletin outlines the steps that will be taken to carry out this directive.

4. Coverage. These instructions apply to all Executive Branch departments and establishments.

5. Policy. It is the policy of this Administration that the overall size of the Federal civilian workforce shall be reduced as expeditiously as possible. Toward that end, Executive Branch departments and establishments are directed to stop immediately all hiring.

Except for the exemptions listed below, this hiring limitation applies to all departments and establishments and to all types of appointments, temporary as well as permanent.

Contracting with firms and institutions outside the Government will not be used to alleviate or circumvent the effect of this hiring freeze.

6. Exemptions. The following exemptions to the hiring freeze are permitted:

- a. upon determination by the agency head that hiring is necessitated by emergency situations involving directly the safety of human life or the protection of property. The determination must be based upon a clear indication that human safety could be affected directly or that property could be damaged. Such a determination may be applied in situations where medical, hospital, or other health care is furnished directly and where protection of property or persons is the primary purpose of employment. Air safety functions are also included. This exception does not apply to employment involving research, or other activities that ultimately affect human safety. It also does not apply to employment for maintenance of facilities or land and forest management.

An agency head who determines that this exemption is applicable must immediately notify the Director of OMB in writing that the exemption is being used and state the reasons therefor as well as the number of positions involved. The Director of OMB may overturn the exemption, if, in his view, it is not warranted.

- b. the filling of positions under programs that are presently exempt from employment ceilings.
- c. hiring in accordance with firm written commitments made on or before November 5, 1980, by agency personnel officers.
- d. hiring by the U.S. Postal Service.
- e. reassignments of personnel within an agency.
- f. appointments to Executive Level positions and noncareer appointments in the Senior Executive Service.
- g. appointments to Schedule C positions. In filling these positions, the number of such appointments may not exceed the number of Schedule C positions existing in each agency as of November 5, 1980.
- h. shifting of employees from one agency to another because of a transfer of functions resulting from Presidential reorganization or legislative action.
- i. hiring by Executive Branch agencies whose on-board total employment as of December 31, 1980, was less than 100. (Hiring by such agencies will not exceed the number of vacancies that occur after December 31, 1980.)

- j. seasonal hiring of temporary employees consistent with historical hiring patterns may be continued, provided that the agency informs OMB in writing in advance of its hiring plans. Such hiring of temporary employees may not be used as a means to circumvent this Bulletin.
 - k. to facilitate the transition, a limited number of noncareer positions may be established for up to 120 days.
 - l. hiring for positions in the Executive Office of the President that are necessary for an orderly transition and operation of the new Administration.
7. Appeals. Additional exemptions may be granted in a very limited number of cases if a determination is made by the Director of the Office of Management and Budget that such action is necessary to assure that essential services are provided, fundamental needs are met, and applicable provisions of law are carried out. When an agency head believes that circumstances warrant an exemption, other than those automatically permitted under section 6 of this Bulletin, an appeal must be made by letter, addressed to the Director of the Office of Management and Budget and signed by the agency head. The need for additional personnel must be fully justified, including an explanation as to why reallocation within the agency is not feasible.
8. Use of savings. Dollar savings generated from personnel reductions may be applied to other approved program activities within the same appropriation in the following order of priority:
- a. to offset the need for mandatory program supplemental appropriations or amendments that could otherwise be submitted to the Congress under the provisions of the Antideficiency Act (31 U.S.C. 665(e)).
 - b. to reduce the 1981 pay supplemental transmitted with the 1982 Budget.

However, where personnel reductions result in withholding of appropriations from obligation, the reporting requirements prescribed by the Impoundment Control Act of 1974 apply, as set forth in OMB Circular No. A-34 and OMB Bulletin No. 75-15. In such cases, rescission proposals or deferral reports will be prepared and submitted to OMB for inclusion in a special message on rescissions and deferrals.

9. Revised 1982 Budget. The personnel reduction will be a part of the Administration's revised 1982 Budget. Further instructions will be provided in a later bulletin that will address budget revision procedures.

10. Effective dates. The instructions in this Bulletin are effective immediately and will remain in effect until further notice.

11. Inquiries. Questions regarding the instructions in this Bulletin will be addressed to the OMB representatives in charge of the agency's budget estimates.



Dale R. McOmber
Acting Director

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